

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	Case No. 8:02CR209
)	
Plaintiff,)	
)	
v.)	ORDER
)	
DEMETRIUS SMITH,)	
)	
Defendant.)	

Before the court is the government's motion for reduction of sentence pursuant to Rule 35(b) and request for hearing. Filing No. 55. Having considered the matter,

IT IS ORDERED that:

1 A hearing on the government's motion for reduction of sentence pursuant to Rule 35(b) has been set before the undersigned United States district judge on **August 9, 2005, at 3:00 p.m.** in Courtroom No. 3, Roman L. Hruska U.S. Courthouse, 111 South 18th Plaza, Omaha, Nebraska.

2. Counsel for the defendant, if previously appointed pursuant to the Criminal Justice Act, is reappointed to represent the defendant for purposes of the Rule 35(b) motion. If retained, counsel for the defendant remains as counsel for the defendant until the Rule 35(b) motion is resolved or until given leave to withdraw. The Federal Public Defender shall provide CJA counsel with a new voucher.

3. At the request of the defendant through his counsel, and with the agreement of the government, the defendant may be absent from the hearing on the Rule 35 motion.

4. The Marshal is directed not to return the defendant to the district, and the defendant is held to have waived his right to be present.

DATED this 1st day of August, 2005.

BY THE COURT:

s/ Joseph F. Bataillon
JOSEPH F. BATAILLON
United States District Judge

